

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

UNITED STATES POSTAL SERVICE

and

Case No. 05-CA-180590

**LARRY THURMAN PRETLOW II,
an Individual**

*Katrina Ksander, and Stephen P. Kopstein, Esqs. for the General Counsel.
Mark Wilson, Esq., for the Respondent.*

DECISION AFTER REMAND

STATEMENT OF THE CASE

Arthur J. Amchan, Administrative Law Judge. I issued a decision in this matter on August 1, 2017 dismissing the complaint which alleged the Respondent discriminatorily issued Charging Party Larry Pretlow a performance evaluation and then discriminatorily discharged him. On March 15, 2018, the Board unanimously remanded the case to me with direction to make findings and conclusions as to whether Pretlow's protected activity was a motivating factor in Respondent's decision to give him the performance evaluation and if so, whether Respondent would have given Pretlow the performance evaluation even absent his protected activity. The Board also directed me to reconsider Pretlow's discharge in light of my findings and conclusions regarding the performance evaluation allegation. In a footnote, the Board also directed me specifically to determine whether the testimony of Pretlow's supervisor, Shakeel Khan, is credible as to his assertion that he gave a performance evaluation to Pretlow, but not to other probationary employees, because Khan had only recently learned that a performance evaluation was required for probationary employees.

Finally, the Board directed me to evaluate both allegations in accordance with *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981).¹ This case was tried in Washington, D.C. on May 31 and June 1, 2017, and upon my reopening of the record on July 2, 2018. Larry Thurman Pretlow, II, filed the charge on July 21, 2016. The General Counsel issued the complaint on March 21, 2017.

The General Counsel alleges that Respondent, the United States Postal Service, violated Section 8(a)(3) and (1) of the Act by giving Mr. Pretlow a 30-day performance evaluation on June 8, 2016 and then terminating his employment on June 9, 2016 because Pretlow filed a grievance about his prior termination in February 2015 on which he prevailed in arbitration.

On the entire record, including my observation of the demeanor of the witnesses,² and after considering the briefs filed by the General Counsel and Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

II. ALLEGED UNFAIR LABOR PRACTICES

Respondent, which has its headquarters in Washington, D.C., provides postal services throughout the United States, including from its Engleside post office in Alexandria, Virginia. The Board has jurisdiction over Respondent pursuant to Section 1209 of the Postal Reorganization Act. The National Association of Letter Carriers (NALC), which represented the Charging Party, is a labor organization within the meaning of Section 2(5) of the Act.

The Postal Service hired Larry Pretlow in March 2013 as a City Carrier Assistant (CCA). He began working in the District of Columbia but was transferred to Alexandria, Virginia, a few months later. On February 21, 2015, the Postal Service, while Pretlow was working out of the Engleside branch post office, converted him to full time regular status. Five days later, on February 26, 2015, it terminated his employment. At the time of Pretlow's termination Shakeel Khan was the manager of the Engleside post office in Alexandria. Khan was also the manager

¹ In order to prove a violation of Section 8(a)(3) and (1), the General Counsel must show that union activity or other protected activity has been a substantial factor in the employer's adverse personnel decision. To establish discriminatory motivation, the General Counsel must show union or protected concerted activity, employer knowledge of that activity, animus or hostility towards that activity and an adverse personnel action caused by such animus or hostility. Inferences of knowledge, animus and discriminatory motivation may be drawn from circumstantial evidence as well from direct evidence. Once the General Counsel has made an initial showing of discrimination, the burden of persuasion shifts to the employer to prove its affirmative defense that it would have taken the same action even if the employee had not engaged in protected activity. *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981).

² The General Counsel did not call Pretlow as part of its direct case. In my 22 years as an NLRB judge, I cannot recall another instance in which the General Counsel did not call the Charging Party as a witness when the termination of that individual was the principal issue in the case.

when Respondent fired Pretlow in 2016. Although Khan is not mentioned in the arbitration award discussed below, he played some role in Pretlow's 2015 termination, Tr. 105-06.³

Pretlow filed a grievance pursuant to the collective bargaining agreement between the NALC and the Post Office. Tobie Braverman, an arbitrator, conducted a hearing of Pretlow's grievance on April 8, 2016. On April 22, 2016, Arbitrator Braverman issued an award ordering Pretlow's reinstatement. She also ordered that Pretlow would have to serve the remainder of the 90-day probationary period that is required for employees who are converted from CCA to regular status.

The Arbitration Award

According to the arbitration award, Pretlow's 2015 termination arose out of a dispute with Supervisor Shari Hearn on February 14, 2015.⁴ Pretlow threatened to file an EEO charge. Then, according to Pretlow, Hearn threatened him by saying that her sons would take care of him. Pretlow called the Postal Inspection Service's National Law Enforcement Communications Center (NLECC) and alleged that Hearn had threatened his life. Hearn also reported their confrontation. A Postal Inspector credited Hearn's account. However, the Postal Service did not take disciplinary action against Pretlow as a result of his February 14 argument with Hearn. It fired him for falsely stating to the Inspection Service that his life was in danger on 3 occasions. This apparently referred to the three occasions on which Pretlow contacted the Inspection Service; February 14 or 15, [the day he came a regular carrier], February 21 and 23, 2015.

On February 27, 2015, the Postal Service terminated Pretlow for making false statements to the Inspection Service that his life was in danger.

Under the terms of the collective bargaining agreement between NALC and the Postal Service, a regular carrier has a 90-day probationary period during which time that carrier is not permitted access to the grievance procedure. CCAs do have such access. The Arbitrator concluded that the Postal Service delayed disciplining Pretlow until he became a regular carrier to prevent him from having recourse to the grievance procedure. She also found that the Postal Service had failed to meet its burden of proving that Pretlow had made false statements, the offense for which he was terminated.

Arbitrator Braverman ordered the Postal Service to reinstate Pretlow with full backpay. She ordered that he would remain in probationary status until he completed the remainder of his 90-day probationary period. She also admonished Pretlow for being insubordinate to Hearn on February 14 and urged him to be more cooperative with management upon his return to work.

³ Khan's testimony regarding his role in the 2015 termination is confusing, Tr. 105-06. He testified that he initiated the termination but also suggested that his role was somewhat ministerial.

⁴ Hearn was deceased by the time of the arbitration hearing and Pretlow did not testify about the circumstances of his dispute with her in this proceeding. Thus, I rely on the arbitrator's award for background as to the events resulting in the 2015 termination. However, I do not rely on the arbitrator's decision to credit Hearn's account of the February 14 confrontation. Therefore, I find the admonishment to Pretlow in her decision about the unacceptability of refusing to obey or arguing with a supervisor's instructions is irrelevant except insofar as it affected the conduct of manager Shakeel Khan in 2016.

Pretlow's return to work on May 4, 2016

Larry Pretlow returned to work at the Engleside Post Office on May 4, 2016. On his first day back at work he met post office manager Shakeel Khan and local union president Andre Washington. Khan informed Pretlow that his performance would be evaluated since he was a probationary employee. This is consistent with the Postal Services' regulations that had been in force for several years prior to 2016, R. Exh. 10. Khan and Pretlow initialed a blank evaluation form (Postal Service form 1750).

Postal Service rules require that a probationary employee be evaluated within 30 days of the beginning of the probationary period. This evaluation must be documented on a Postal Service form PS 1750, R. Exh. 10. While Respondent states that PS forms 1750 from Engleside that predate Pretlow's termination existed, it did not produce any pursuant to the General Counsel's subpoenas-with the possible exception of Princess Reynolds and Aleese Borum, Exh. R-20. The reason it gives for nonproduction, unauthorized destruction of documents by the Postmaster, was not given prior to the initial hearing in this matter.

I find that Respondent has not established that it performed any evaluations on Engleside employees that were documented on a PS 1750 prior to scheduling Pretlow for such review on May 4, 2016. Even if it did give such an evaluation to Princess Reynolds and Aleese Borum, I find that it was not a regular practice to perform a PS 1750 evaluation of any employee prior to June 8, 2016.

I also do not credit Shakeel Khan's explanation as to how he knew that Pretlow was required to have such an evaluation. He testified that he was not aware that he was supposed to do an evaluation of a CCA who had been converted to regular status until a managers' meeting a few months prior to June 8, 2016, G.C. Exh. 8, Tr. 136-37. At the initial hearing, Khan could not recall precisely when this meeting took place, Tr. 137-38.⁵ At the remand hearing he testified that the meeting probably occurred in April. Khan testified that the evaluation requirement for recently converted regular carriers was something that was news to other managers, Tr. 136.⁶ Respondent could have proffered testimony from other managers who attended the same meeting, to corroborate Khan's testimony. It did not do so either at the initial hearing or the remand hearing. Instead it relied solely on Khan's self-serving testimony, which I again decline to credit.

On May 31, Pretlow took offense at some conduct by Khan. It is not exactly clear what transpired. However, Khan apparently felt that Pretlow could not finish his delivery route on time. According to Pretlow, Khan publically ridiculed him for needing extra time or help to finish his route. He complained in writing about this to the Assistant Postmaster on June 1, Exh.

⁵ His testimony is that the meeting occurred a few months prior to June 2016.

⁶ In the published version of my decision attached to the Board's March 15, 2018 decision, there is material missing from the decision as I issued it, see the Board's website for my August 17, 2017 decision.

The complete sentences are as follows, with the omitted language in bold:

Given evidence that no other probationary regular carrier was given an evaluation prior to Pretlow, this is something on which one **would expect more specificity**. Khan testified that the evaluation requirement was something that was news to other managers, Tr. 136.⁶

R-4. Khan testified that he generally tried to avoid interaction with Pretlow because Pretlow blamed him for the 2015 termination and because he “knew the way he goes off,” Tr. 127.

June 8, 2016 performance evaluation

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On the afternoon of June 8, after Pretlow had finished his route, he was approached by his immediate supervisor, Rebar Chergosky. She informed him that he was going to have his evaluation that afternoon. Chergosky and Pretlow went to a private office in the back of the post office where they were joined by Shakeel Khan and Chief Union Steward Dwayne Martin. Of the conflicting versions of what occurred I find that of Martin most credible since of all the witnesses he had the least at stake in the outcome of this proceeding.⁷

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Chergosky started reading from the evaluation form, which had 6 categories in which the employee was to be rated outstanding or satisfactory or unacceptable or not observed.

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Chergosky told Pretlow that his work quantity was unacceptable. Pretlow loudly objected. Shakeel Khan and Pretlow began to argue loudly. Martin testified that there was no screaming, no threatening and no finger pointing. However, Martin took Pretlow out of the room to calm him down.

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After they returned, most likely after Chergosky told Pretlow his dependability was unacceptable, Pretlow loudly protested again.⁸ Pretlow and Khan began to argue again. Martin testified that Pretlow did not scream, bang on doors (as Khan testified) or otherwise behave in a bizarre manner. Pretlow stated that “he could not take this.” Then he left the room again, Tr. 145. Martin then suggested that the meeting be terminated, Tr. 147-48. The evaluation was not completed. With respect to how the meeting ended, I find Khan’s account more plausible than Pretlow’s.⁹

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After the meeting ended, on June 8, Rebar Chergosky prepared a termination letter for Pretlow with input from Khan and Respondent’s labor relations staff.¹⁰ The letter, G.C. Exh. 4, states:

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⁷ Respondent argues that I should not have credited Martin because he was afraid of Pretlow. Pretlow had threatened to sue the Union, had alleged that Martin and Union President Washington were “in cahoots with management,” and complained to the Union that Martin had not satisfactorily done his job as steward. Pretlow filed a “CB” charge against the Union which apparently related to his June discharge and Martin’s conduct, Tr. 81-83.

⁸ Dependability is the third category on the form. Rebar gave Pretlow a satisfactory rating on the second category, work quality.

⁹ As noted earlier, the General Counsel did not call Pretlow, the Charging Party, as a witness. Respondent called Pretlow as a witness as part of its case. I do not regard Martin’s testimony at Tr. 83-84 to be inconsistent with Khan’s at 145. I conclude that it is Pretlow’s behavior that prevented the meeting from being concluded.

¹⁰ Chergosky and Khan testified that Chergosky made the decision to terminate Pretlow. I am very skeptical that this is true except in the most technical sense. Chergosky had been a supervisor for only a couple of months. It is clear that she consulted with Khan and Henry Baer from Respondent’s labor relations department, in making the termination decision. Given Khan’s intimate involvement with the events surrounding Pretlow’s discharge, I infer that his opinion was determinative. I also do not credit Chergosky’s testimony that she was considering terminating Pretlow for poor performance prior to the June 8 meeting. That testimony is completely self-serving and unsupported by any documentation. Moreover, it is inconsistent with Khan’s testimony at Tr. 142 that he did not anticipate terminating Pretlow prior to the evaluation meeting.

This is to advise you that your employment is being terminated during your probationary period, effective immediately. The reason for this action is your improper conduct.

You were recently converted to a full-time, regular letter carrier position with a 90 -day probationary period. On June 8, 2016, when Supervisor Reber Chergosky began conducting your 30-day evaluation, you became disruptive and rude, raising and shaking your hands. Your union steward, Dwayne Martin, was present for the evaluation and asked for a few minutes to talk to you. Martin took you out of the room, and upon your return a few minutes later, your behavior became even worse. Your attitude was negative, and your body language was aggressive. When I began to discuss your attendance and dependability, you began waving your hands and speaking loudly. You were threatening, saying, "You're in trouble already! I know people in high places!" I had to end the evaluation due to your hostile and threatening behavior.

Based on your improper conduct, it has been determined that it would be best not to retain your employment as a letter carrier.

July 9 termination

Respondent pulled Pretlow's time card before he arrived for work on July 9. He was told to report to the office in the back of the post office. Martin, Khan, Chergosky and Henry Baer from Respondent's labor relations department were present. Chergosky tried to present the termination letter to Pretlow. He began screaming, crying and rolling around on the floor. Ultimately, somebody called an ambulance and Pretlow was transported off the premises.

Analysis

The filing of a grievance is a right protected by the Act, *Yellow Transportation, Inc.* 343 NLRB 43 (2004). It is thus a violation of Section 8(a)(1) to discriminate against an employee for filing a grievance or prevailing in an arbitration.

To establish a Section 8(a)(1) or 8(a)(3) violation based on an adverse employment action¹¹ where the motive for the action is disputed, the General Counsel has the initial burden of showing that protected activity was a motivating factor for the action, *Wright Line*, 251 NLRB 1083 (1980). The General Counsel generally satisfies that burden by proving the existence of protected activity, the employer's knowledge of the activity, animus against the activity and sufficient grounds for inferring discriminatory motive. If the General Counsel meets his burden, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct.

¹¹ For purposes of this decision, I assume that discriminatorily scheduling an employee for a performance evaluation can be an "adverse action."

The Board directed me to evaluate both allegations in accordance with *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981). The General Counsel has analyzed this case under *Atlantic Steel*, 245 NLRB 814, 816 (1979). I do not believe I would reach a different result under *Atlantic Steel*, but I think that analysis is best (or only) suited for a situation in which the alleged discriminatee was disciplined or discharged for misconduct related to protected conduct. That was not the case with regard to Pretlow. Moreover, Pretlow's conduct was not merely an "outburst," it constituted insubordination in effectively refusing management's direction to participate in a performance evaluation.

In this case the General Counsel has met his initial burden. Respondent knew that Larry Pretlow had filed a grievance and had prevailed. Animus and discriminatory motivation can be inferred from the timing of Pretlow's performance evaluation and his second discharge immediately upon his return to work following the arbitrator's award. Thus, the question becomes whether Respondent meet its burden of proving non-discriminatory motivation in giving Pretlow a performance evaluation on June 8 and firing Pretlow on account of his conduct at the June 8 performance evaluation.

The General Counsel relies heavily on the proposition that the June 8 evaluation was a "set-up" arranged to allow Respondent to terminate Pretlow for filing a grievance and prevailing. Respondent has failed to prove that it conducted the type of performance review that is documented on a PS 1750 for any employee at the Engleside Post Office prior to June 8. To the extent that Shakeel Khan testified to the contrary I do not credit his testimony. Respondent was able to produce Form 1750s from other locations prior to this date, but none from Engleside.¹² Thus, Respondent has not met its burden of proving that Pretlow was not treated disparately in scheduling him for a performance review on his first day back to work or for giving him a performance review 30 days later.

Heeding the directions from the Board, I find that the General Counsel met its burden under *Wright Line* that Pretlow would not have been given a performance evaluation 30 days after his return to work-absent his protected activity, solely on the timing of the evaluation. I also conclude on the basis on this record that Respondent did not meet its burden that it would have given the performance evaluation after 30 days absent its animus towards his filing and prevailing on his grievance. Based on the General Counsel's *prima facie* case, I conclude that the timing of the June 8 review was motivated in part by Khan's animus towards Pretlow. Further, I infer that Khan's animus was at least in part due to Pretlow's protected activity in grieving his 2015 discharge and prevailing. Thus, I find that Respondent violated the Act, as alleged, in giving Pretlow a performance evaluation on June 8, 2016.

Postal Regulations required that Respondent give Larry Pretlow a performance review at 30 days after the beginning of his probationary period. These regulations had been in force for years prior to June 2016. However, there is no credible evidence that management at the Engleside branch abided by these regulations prior to scheduling Pretlow for a review.

¹² With the two possible exceptions noted earlier.

On the other hand, I find that it likely that at some time after his return to work, Pretlow would have been given a formal evaluation. I base this on the fact that management gave such evaluations to at least 3 other employees after Pretlow's discharge. There is no basis for concluding that these evaluations were given to provide Respondent cover for giving Pretlow a formal evaluation.

The General Counsel also argues that the discriminatory motive in terminating Pretlow is suggested by the fact that the evaluation was conducted in a backroom office at the Post Office. I disagree because I credit Shakeel Khan's testimony that Respondent met with Pretlow in the back room because of Pretlow's hypersensitivity to criticism. This hypersensitivity was exhibited by Pretlow with regard to Khan's assignment of other carriers to assist Pretlow on his route on May 31. Had management given Pretlow a review in an open working area, such as those management gave to carrier assistants, Tr. 55, it would have been risking additional complaints of public ridicule from Pretlow.

Despite the suspicious background for the *timing* of the June 8 evaluation, there is no question that Pretlow did not cooperate in the evaluation and did not allow Respondent to complete it. I would also note that on May 4, when Khan informed Pretlow that this evaluation would take place, he did not object or assert that Respondent was discriminating against him in performing an evaluation during his probationary period. Moreover, there is nothing in this record that would lead one to conclude that Respondent's managers should have anticipated Pretlow's outburst in reaction to his performance evaluation.

The General Counsel argues that Respondent cannot rely on Pretlow's behavior on June 8, because it provoked his reaction. I disagree. There is no evidence on which I can base a conclusion that Respondent's adverse assessment of Pretlow's work quantity and dependability was discriminatorily motivated. He was not privileged to refuse to cooperate in the evaluation and prevent its completion. Therefore, I conclude that Respondent met its burden of establishing its affirmative defense (that it would have fired Pretlow for his conduct on June 8 absent his protected activity) and did not violate the Act in terminating his employment on the basis on his behavior at the evaluation.

The General Counsel contends that Respondent cannot incite employee misconduct by engaging in an unfair labor practice and then rely upon the provoked misconduct for an adverse employment action.¹³ However, the employee's misconduct must be evaluated by comparing the seriousness of employer's unlawful conduct with the extent of the employee's reaction, *Kolkka Tables & Finnish-American Saunas*, 335 NLRB 844, 849 (2001); *Caterpillar, Inc.*, 322 NLRB 674, 678 (1996); *Trus Joist Macmillan*, 341 NLRB 369 (2004).

In this case, I find that Respondent was entitled to terminate Pretlow for insubordination because scheduling him for a performance evaluation does not rise to the level of a "provocation." From the record, it appears that Pretlow did not object to the performance evaluation until Respondent advised him his performance was unsatisfactory. The fact that he was having the evaluation did not "provoke" him. Assuming *arguendo* that the scheduling of

¹³ This argument is set forth in the General Counsel's March 30, 2018 response to the Postal Service motion regarding re-opening the record, as opposed to its post-trial brief.

the performance evaluation was a “provocation,” I conclude that it was such a minimal provocation that Respondent was entitled to terminate Pretlow for insubordination for refusing to cooperate in it.

5 Employees should have no expectation that their job performance will not at some point be evaluated by their employer. They should have no expectation that they will not be told their performance is substandard if that is the case. Postal Regulations require such an evaluation. There is no evidence that Respondent’s assessment of Pretlow’s performance was discriminatory (i.e., that his performance was not sub-standard). Moreover, Respondent’s “provocation” is de
10 minimis or close to it when compared to the types of provocations that the Board has, in past, excused insubordination. For example, in *Paradise Post*, 297 NLRB 876 n. 2 (1990), the employer refused to pay the discriminatee part of the salary that he had earned. In *Brunswick Food and Drug*, 284 NLRB 663 (1987), the employer called the police to break up a lawful union meeting. Respondent’s conduct in giving Pretlow a performance evaluation, even if
15 discriminatory and/or motivated in part by his filing and prevailing on his grievance, is not comparable and I find it does not excuse his insubordination at the evaluation. I therefore conclude that Respondent did not violate the Act in terminating Pretlow.

Citing *Supershuttle of Orange County*, 339 NLRB 1, 3 (2003) and *Kiddie, Inc.*, 294
20 NLRB 840, n.3 (1989), the General Counsel contends that since the performance evaluation was unlawful, Pretlow’s conduct cannot form the basis of a lawful termination. I find these cases distinguishable. The investigations conducted in those two cases were undertaken with a motive to find a basis for terminating the discriminatees. As the Board stated in *Supershuttle*, Respondent’s reasons for the termination in that case were pretextual. That is also evident in
25 *Kiddie*.

In this case, I find no reason to conclude that the Postal Service did not terminate Pretlow for his insubordination in the evaluation, as opposed to terminating him for filing and prevailing in his grievance. I also distinguish those cases on the basis that an investigation into potential
30 misconduct of a known union supporter is different than a performance evaluation that every employee, particularly a probationary employee, should expect in some manner at some time.

Conclusions of Law

35 Respondent violated Section 8(a)(3) and (1) in giving Larry Pretlow a performance evaluation on June 8, 2016.

Respondent did not violate the Act in terminating Larry Pretlow for his insubordination at the June 8, 2016 performance evaluation.

40 On these findings of fact and conclusions of law and on the entire record, I issue the following recommended¹⁴

¹⁴ If no exceptions are filed as provided by Sec. 102.46 of the Board’s Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

ORDER

REMEDY

5 Having found that the Respondent has engaged in certain unfair labor practices, I shall
 order it to cease and desist therefrom and to take certain affirmative action designed to effectuate
 the policies of the Act.

10 The Respondent, the United States Postal Service, its officers, agents, successors, and
 assigns, shall

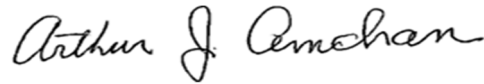
- 15 1. Cease and desist from scheduling performance evaluations because an employee filed
 a grievance over a prior termination.
2. In any like or related manner interfering with, restraining, or coercing employees in
 the exercise of the rights guaranteed them by Section 7 of the Act.
- 20 3. Take the following affirmative action necessary to effectuate the policies of the Act.
- (a) Within 14 days after service by the Region, post at its Engleside, Alexandria,
 Virginia facility copies of the attached notice marked "Appendix."¹⁵ Copies of the
 notice, on forms provided by the Regional Director for Region 5, after being signed
 by the Respondent's authorized representative, shall be posted by the Respondent and
 maintained for 60 consecutive days in conspicuous places including all places where
 25 notices to employees are customarily posted. In addition to physical posting of paper
 notices, the notices shall be distributed electronically, such as by email, posting on an
 intranet or an internet site, and/or other electronic means, if the Respondent
 30 customarily communicates with its employees by such means. Reasonable steps shall
 be taken by the Respondent to ensure that the notices are not altered, defaced, or
 covered by any other material. In the event that, during the pendency of these
 proceedings, the Respondent has gone out of business or closed the facility involved
 in these proceedings, the Respondent shall duplicate and mail, at its own expense, a
 35 copy of the notice to all current employees and former employees employed by the
 Respondent at any time since June 8, 2016.

15 If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading
 "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United
 States Court of Appeals Enforcing an Order of the National Labor Relations Board."

- (b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

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Dated, Washington, D.C. September 14, 2018



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Arthur J. Amchan
Administrative Law Judge

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APPENDIX**NOTICE TO EMPLOYEES**

**Posted by Order of the
National Labor Relations Board
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT schedule you for a performance evaluation because you filed a grievance under your collective bargaining agreement.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

UNITED STATES POSTAL SERVICE

(Employer)

Dated _____ By _____

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

Bank of America Center, Tower II, 100 S. Charles Street, Ste 600, Baltimore, MD 21201-4061
(410) 962-2822, Hours: 8:15 a.m. to 4:45 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/05-CA-180590 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND
MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS
CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE
REGIONAL OFFICE'S COMPLIANCE OFFICER, (410) 962-2880.